THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.22796 of 2005

Date:29.12.2005

Between:

A.V.Govinda Rajulu

--------PETITIONER

The Singareni Collieries Company Limited and another

---------RESPONDENTS

ORDER:

The petitioner was initially appointed in the Forest Department of the Government, the second respondent herein, as Forest Range Officer on 1.11.1966. He continued in Government service up to 14.08.1980. Thereafter, he was appointed as Timber and Plantation Officer in the Singareni Collieries Company Limited, the first respondent herein. He is due to retire on 31.12.2005.

The petitioner contends that he made a representation to the 1st respondent, for extension of the benefit of leave encashment, that has accrued to him while in Government service. He contends that the second respondent has communicated the details of the leaves that had accrued to him way back on 03.06.1997 and so far, the first respondent has not taken steps to consolidate them for the purpose of payment of leave encashment.

The first respondent filed counter-affidavit stating that it is under obligation to extend the benefit of leave encashment to the petitioner, only for the service actually rendered by him in the organization and that there is no provision, which mandates that they should pay such benefits for the service of the petitioner, under the second respondent.

The second respondent filed counter-affidavit narrating the relevant facts and the manner in which the petitioner came to be appointed with them and thereafter,

relieved from the service of the Government. In para '8' of the counter-affidavit, it is categorically stated that they are prepared to extend the benefit of leave encashment to the petitioner, for the period between 01.11.1966 and 14.08.1980.

Heard the learned counsel for the petitioner, the learned Government Pleader for Forests and the learned standing counsel for the first respondent.

The controversy in this writ petition is as to the entitlement of the petitioner, to be paid the benefit of leave encashment. The service of the petitioner is divided into two spells; one with the second respondent and the other with the first respondent. In the ordinary course of things, an employer would be under obligation to pay the benefits to the employees, only for the period of service rendered with them. Where, however, the employment of an employee is partly in the Government and partly with a public enterprise, provisions are made to ensure that the benefits for the entire service rendered in both organizations are extended, at the time of retirement. Different Government orders came to be issued in this regard.

The first spell of the service of the petitioner between 01.11.1966 and 14.08.1980 is with the second respondent and the service between 15.08.1980 and 31.12.2005 is with the first respondent. Since the first respondent is a public enterprise, the petitioner is entitled to the continuity of service in the matter of payment of leave encashment.

The orders issued by the Government in G.O.Ms.No.315 Finance & Planning (FIN.WING FR.I) Department, dated 06.09.1977, are to the effect that the Government would forward the accrued benefit to the public enterprise, so that it can be passed on to the employee, at the time of retirement. In the instant case, the second respondent has forwarded the particulars of leave encashment of the petitioner, but did not forward the corresponding amount. However, they have given a categorical undertaking in para '8' of the counter-affidavit that they would pay the requisite amount to the petitioner. In that view of the matter, the grievance of the petitioner, virtually, stands redressed. It should make little difference for him whether the second respondent makes over the amount to the first respondent, or pays it to the petitioner directly. The second respondent needs particulars of service of the petitioner, with the 1st respondent, for the purpose of making necessary computations.

For the foregoing reasons, the writ petition is allowed, directing that the first respondent shall furnish the particulars of leave to the credit of the petitioner, as on the date of his retirement; to the second respondent, on or before 15.01.2006. On receiving the same, the second respondent shall undertake necessary calculation and pay the corresponding amount of leave encashment to the petitioner for the period between 01.11.1966 and 14.08.1980, by the end of February, 2006. The petitioner shall be entitled to be paid the balance, on this account, for the period of his service from 15.08.1980 to 31.12.2005 by the first respondent. There shall be no order as to costs.

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29.12.2005

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